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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/657,722	09/08/2000	Pramod K. Srivastava	8449-115-999	8697

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EXAMINER

BANSAL, GEETHA P

ART UNIT	PAPER NUMBER
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1642

DATE MAILED: 05/03/2002

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/657,722

Applicant(s)

Srivastava et al

Examiner

Geetha Bansal

Group Art Unit

1642

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Priority

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE -3- MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 1/14/02
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 19-51 is/are pending in the application.
- Of the above claim(s) 20, 21, 32-51 is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 19, 22-31 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been
- ☐ received.
- ☐ received in Application No. (Series Code/Serial Number) _____
- ☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s) _____
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

Art Unit: 1642

DETAILED ACTION

1. Applicant's election with traverse of Group II in Paper No. 6/C is acknowledged. The traversal is on the ground(s) that Group II invention can be searched together with the Group III invention, and that it would not be serious burden as the Groups have also been classified in the same Group. However, this is not found persuasive because the two groups are not drawn to the same-subject matter upon reviewing the claims. Group II invention is drawn to a composition comprising a population of peptides, whereas the Group III invention is drawn to a single peptide. These two Groups are distinct and independent of each other.

The requirement is still deemed proper and is therefore made FINAL.

Claims 19, 22-31 are being examined.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 19, 22-31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

A. Claim 19 is indefinite in that it is not clear if the population of stress protein peptide complexes are non-covalently associated with each other, or that each of the stress protein is non-covalently associated with a peptide

B. Claim 19 is unclear in that the claim preamble does not relate to the conclusion.

C. Claim 19 is indefinite in that it is not clear what the metes and bound of "amount" is.

D. It is not clear in claim 24 what the metes and bounds are of "low pH".

E. Claims 28-29 are ambiguous in the recitation of "cells have been proliferated in vitro" or "cells have been proliferated in vivo".

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4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 19, 22-31 are rejected under 35 U.S.C. 112, first paragraph, because the specification, while being enabling for heat shock proteins 70, 90, gp96, does not reasonably provide enablement for stress-proteins in general. The specification does not enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to the invention commensurate in scope with these claims. The specification contemplates/ teaches the making and using of heat shock protein 70, 90, gp96 associated with peptides, and the fact that stress proteins includes a vast number of proteins that are induced in response to a range of different stresses including heat shock, nutrient deprivation, oxygen radicals, metabolic disruption, viral infection (see Young, 1990; reference EE on the IDS). Furthermore, it appears that not all hsp are equivalent in their ability to exert their antigen presenting properties (see Srivastava, 1993 at least at page 166, section H- last 6-7 lines; reference DK in the IDS). Therefore, it is not predictable if all stress protein are associated with peptides, and secondly whether a population of peptides can be obtained from them by the same methods. One of skill in the art would not be able to practice the claimed invention without undue burden, as one of skill in the art is not given sufficient in the specification as to all the stress proteins that are available in the general scheme of biological systems and the stresses that are imposed upon them, leading to their induction.

5. No claims are allowed.

6. Papers related to this application may be submitted to Group 1640 by facsimile transmission. Papers should be faxed to Group 1640 via the PTO Fax Center located in Crystal Mall 1. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The CM1 Fax Center telephone number is (703) 308-4242 or (703) 305-3014.


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7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dr. Geetha P. Bansal whose telephone number is (703) 305-3955. The examiner can normally be reached on Mondays to Thursdays, and alternate Wednesdays from 7:00am to 4:30pm and alternate Fridays from 7:00am to 3:30pm. A message may be left on the examiner's voice mail service.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Anthony Caputa, can be reached on (703) 308-3995.

8. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

April 5, 2002.


GEETHA P. BANSAL
PRIMARY EXAMINER